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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/645,073	05/13/96	YOSHIOKA	M 1046.1133/JD

LM01/0223

EXAMINER

GREGORY, B

ART UNIT

PAPER NUMBER

2766

15

DATE MAILED: 02/23/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>08/645,073</b>	Applicant(s) <b>Makoto Yoshioka et al.</b>
	Examiner <b>Bernarr Earl Gregory</b>	Group Art Unit <b>2766</b>

Responsive to communication(s) filed on 30 Dec 1998

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three (3) month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-15 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) 1-8 is/are allowed.

Claim(s) 9-15 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. Claims 1-8 are allowable over the prior art of record.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 9-15 are rejected under 35 U.S.C. 102(b) as being anticipated by William (U.S. Patent 4,470,890).

Claims 9-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Grantz et al (U.S. Patent 5,564,038).

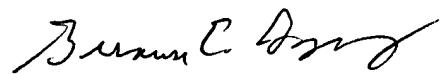
William (U.S. Patent 4,470,890) shows software residing on a computer readable medium with a usage count that is kept on the computer readable medium itself. The usage count is a crude way of measuring a “period” as claimed in claims 9-15. Please note that William (U.S. Patent 4,470,890) refers to a “trial period” of usage, thereby plainly indicating that the count measures a “period.” Please note the Abstract of William (U.S. Patent 4,470,890).

Grantz et al (U.S. Patent 5,564,038) is similar to William (U.S. Patent 4,470,890) in that a “trial period” is measured; however, Grantz et al (U.S. Patent 5,564,038) uses a “date stamp” (e.g., item 460 in Figure 4) and a test as to the number of days that have passed (e.g., item 470 in

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Figure 4). Grantz et al (U.S. Patent 5,564,038) plainly has a timer (e.g., items 430, 435, and 440 in Figure 4).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernarr Gregory whose telephone number is (703) 306-4153.



**Bernarr E. Gregory  
Primary Examiner  
Art Unit 2766**

beg  
February 20, 1999